IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4878 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHARUCH SOCIAL SERVICE SOCIETY - Petitioner(s)

Versus

PARSING CHUNILAL VASAVA - Respondent(s)

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Appearance :

MR JOY MATHEW for Petitioner No(s).: 1.

MR PH PATHAK for Respondent No(s).: 1.

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 29/08/2005

ORAL JUDGMENT

In the present petition, the petitioner-employer has challenged the award passed by the Labour Court, Bharuch on 15.9.94 as well as the order passed by the same court on 25.9.2000 by which the application filed by the

petitioner seeking setting aside of the ex parte award came to be dismissed for default.

2. The respondent-workman had raised an industrial dispute before the Labour Court, Bharuch. The reference came to be allowed ex parte by the award dated 15.9.94. The termination of the respondent-workman dated 1.8.87 came to be set aside and he was ordered to be reinstated in service with full backwages. To recall this ex-parte award, the petitioner filed an application before the Labour Court on 14.11.94. This application also came to be dismissed on 25.9.2000 for default.

3. It is the case of the petitioner that the notice of hearing of the main award was not served to the petitioner. Subsequently, the petitioner had engaged an advocate, namely, Shri N.J.Pandya who was representing the petitioner before the Labour Court in the Misc. Application. He, however, expired in the year 1997 about which the petitioner did not know. In the year 2000, when the Labour Court dismissed the application for recalling the ex-parte award, Shri Pandya, advocate of the petitoner, was not alive. Under these circumstances, proceedings were decided against the petitioner by the

Labour Court ex parte.

4. Learned advocate Shri Pathak appearing for the respondent submitted that the petitioner has been negligent which has caused great harm and prejudice to the respondent and the petition should, therefore, not be entertained.

5. Considering the above circumstances, it can be seen that when the Misc. Application filed by the petitioner seeking recalling of the ex parte award was dismissed for default by the Labour Court, learned advocate who was engaged to represent the petitioner had expired. In that view of the matter, it would not be possible to sustain the order dated 25.9.2000 passed by the Labour Court in Misc. Application. In that view of the matter, the said order cannot be sustained and the same is therefore hereby quashed and set aside. The Misc. Application is remanded to the Labour Court for its fresh consideration. The petitioner has not been vigilant enough to pursue the Misc. Application. The remand therefore cannot be unconditional. The petitioner is therefore directed to pay cost of Rs.10,000/- (Rupees ten thousand only) to the respondent. With these directions, the petition is

allowed to the above extent. Rule is made absolute accordingly.

(Akil Kureshi, J.)

(vjn)